

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
INFORMAL BRIEF

No. 19-7756, US v. Brian Hill
1:13-cr-00435-TDS-1

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U.S. COURT OF APPEALS
FOURTH CIRCUIT

1. Declaration of Inmate Filing

An inmate's notice of appeal is timely if it was deposited in the institution's internal mail system, with postage prepaid, on or before the last day for filing. Timely filing may be shown by:

- a postmark or date stamp showing that the notice of appeal was timely deposited in the institution's internal mail system, with postage prepaid, or
- a declaration of the inmate, under penalty of perjury, of the date on which the notice of appeal was deposited in the institution's internal mail system with postage prepaid. To include a declaration of inmate filing as part of your informal brief, complete and sign the declaration below:

Declaration of Non-Inmate Filing

Date Dkt. #226 NOTICE OF APPEAL deposited in the mail system: 11/23/2019

I am not an inmate confined in an institution but am on Supervised Release and deposited my notice of appeal in the mail system. First-class postage was prepaid by me. Certified mail tracking no. 7019-1120-0001-4751-4702. Mailed on November 23, 2019.

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746; 18 U.S.C. § 1621).

Signature: Brian D. Hill
Signed

Date: 12/16/2019

[Note to inmate filers: If your institution has a system designed for legal mail, you must use that system in order to receive the timing benefit of Fed. R. App. P. 4(c)(1) or Fed. R. App. P. 25(a)(2)(A)(iii).]

2. Jurisdiction

Name of court or agency from which review is sought: U.S. District Court
Middle District of North Carolina

Date(s) of order or orders for which review is sought:

MEMORANDUM ORDER signed by CHIEF JUDGE THOMAS D. SCHROEDER on 11/21/2019. Mr. Hill's motion to correct or modify the record, including all other relief sought therein (Doc. 216) is DENIED as to BRIAN DAVID HILL. (Daniel, J) (Entered: 11/21/2019)

3. Issues for Review

Use the following spaces to set forth the facts and argument in support of the issues you wish the Court of Appeals to consider. The parties may cite case law, but citations are not required.

Issue 1.

The district court erred or abused discretion in denying that motion by not taking all witnesses and additional witnesses offered into consideration to ensure that the record is accurate for the ongoing appeals.

Supporting Facts and Argument.

Appellant Brian D. Hill ("Brian", "Hill") believes that the District Court had erred or abused discretion in denying that motion by not taking all witnesses and additional witnesses offered into consideration to ensure that the record is accurate for the ongoing appeals. Four witnesses had presented unsworn federal affidavits under 28 U.S. Code § 1746 presenting testimony that they had heard oral arguments or statements orally that were not mentioned anywhere in the Transcript under Document #215.

See Joint Appendix 1 (JA 1), Joint Appendix 2 (JA 2), Joint Appendix 3 (JA 3), Joint Appendix 4 (JA 4), and Joint Appendix 5 (JA 5).

There were also additional witnesses offered in that motion such as "1. Witness Jason McMurray, United States Probation Officer in the Western District of Virginia, Roanoke Division.", "2. Attorney Renorda Pryor, counsel who had appeared on behalf of Defendant with Defendant at the hearing.", "3.

Government's witness Sergeant Robert Jones, of Martinsville Police Department in the Commonwealth/ State of Virginia.", and "4. Any Deputy U.S. Marshal that was present at that hearing and remembers anything that was said at that hearing in Winston-Salem." Those witnesses were given no opportunity to file their memorandums but only Briana Bell herself "MEMORANDUM OF BRIANA BELL in case as to BRIAN DAVID HILL re: [218] ORDER. (Daniel, J)", Dkt. 220. She works for Judge Thomas D. Schroeder in his courtroom every single day. If she omitted things in her transcript in Appellant's case, then she could have made the same mistake in other cases which subjects them to investigation and audit for every case. It was a potential conflict of interest to simply just take the word of Briana Bell, but not ask for the word of a U.S. Probation Officer who is also an officer of court under a judicial agency such as the United States Probation Office. The District Court erred in only taking one source's information under Dkt. 220 but does not accept the four affidavits in attachment to Document #216, and does not inquire on the offered witnesses and does not order them to file an affidavit on whether or not the words not included in the official transcript were orally spoken at the hearing on September 12, 2019, Dkt. 215. It was an error to accept only one source but not the sources of those who were present at the hearing. This opens the door to anybody possibly omitting important and pertinent information from a Transcript and that those who were actually present at the hearing would have no means of bringing out the truth as the truth should be in the transcript. When an omission occurs without correction when brought to the Court's attention, it misrepresents the record of the hearing as a whole. Who will trust that everything at a hearing was heard the way it was transcribed with proven omissions from the record?

If the Court Reporter cannot add what was already omitted from the official transcript, then can't the multiple affidavits of what was proven to have orally been said at that hearing be added as part of the Record on Appeal (ROA) since the things omitted from the transcript can be proven by witness testimony of those who were present at the hearing? Can't the Court of Appeals accept testimony of what was orally said at the hearing on September 12, 2019 but was omitted from transcript as long as multiple sources can agree on what was orally argued and said by a witness at a court hearing? When there was an omission of an important statement from the Government's own witness that Appellant wasn't being obscene or that he thought that Appellant wasn't being obscene, then that affects the entire appeal as a whole. Obscenity can mean that a person would have to engage in sexual behavior or exhibit a behavior which has a dominant theme, or purpose being an appeal to the prurient interest in sex.

The court could have ordered that Renorda Pryor, Anand Prakash Ramaswamy, Defense witness USPO Jason McMurray, and Government's witness Officer Sergeant Robert Jones all submit a memorandum or affidavit as to the omissions from the transcript. If any of or all of them also attest to the missing oral information from the transcript, then there should be an addendum to the Record on Appeal to include the omitted information from the transcript to complete the record to ensure that it is accurate of what had happened during and on the September 12, 2019 hearing. That very hearing being subject to appeal, appellate review. Very important that important information not be omitted.

Document #223, pages 5-6:

"Having carefully reviewed all of Mr. Hill's filings, the certified transcript of the September 12, 2019 hearing, the court reporter's memorandum certifying the accuracy of the transcript and based on this court's recollection of the proceedings, the court declines to order an alteration in the transcript. First, the court finds that Mr. Hill has not demonstrated that the transcript is inaccurate in any of the respects he claims. It is also noteworthy that Mr. Hill's alleged omissions/errors are not specific, but are imprecise, uncertain, and generalized."

Really? Is that really the fact? Is that really the case here?

Roberta Hill had stated under affidavit the specific and certain allegations of what was omitted

Exhibit 1 — Document #216, Attachment #1: *"...I remember hearing the attorney Ms. Pryor ask officer Jones if Brian Hill was being obscene on the night of September 21* and he replied that he wasn't obscene."*

Exhibit 2 — Document #216, Attachment #2: *"...The last thing I remembered with my own eyes and ears from the hearing, I was right beside Renorda Pryor at the defense table, and she clearly asked the Government's witness "Robert Jones" about if I was being obscene at the time and the witness responding by saying no or I don't think he was. I thought that was really important as I knew that was said verbally at that hearing and I know Renorda had brought up that question."*

Exhibit 3 — Document #216, Attachment #3: *"Attorney Pryor asked Sgt. Jones if Brian was being obscene, His answer was "No". Attorney Pryor asked Sgt. Jones what was in the backpack, and his answer was something like "camera, watch & his clothes". We talked about this on the way home that day, and after we got home, I took notes and sent my notes in PDF format to one of our friends in email on 9/14/2019. We think it's Important to have everything that is in the transcript"*

The District Court erred or lied under Judge Thomas D. Schroeder. It was specific of the omissions. The most important one regarding the Government's own witness Robert Jones admitting that Brian David Hill was not being obscene. The omissions are involving some of the important aspects of the case in favor of the defense. When omissions are of certain oral arguments within the record, and the Judge refuses to ask the suggested witnesses that were present at the hearing but only from HIS OWN COURT REPORTER, AND ONLY his own court reporter who has served in his chambers for years. That seems like a conflict of interest. He seems to be protecting his own court reporter.

Issue 2.

The District Court erred in only accepting testimony of Briana Bell who works in his chambers as his court reporter in his courtroom for years, being caught making a mistake could cause issues in his courtroom. It is a "Conflict of Interest" and prejudice to only accept one witnesses transcript but none of the others including law enforcement and a Probation Officer or even an Attorneys' word on what may have been omitted. Appellant Brian D. Hill ("Brian", "Hill") believes that the District Court had erred or abused discretion in that action.

Supporting Facts and Argument.

As was already outlined in Issue 1., the Court erred or abused discretion in only accepting the word only from the Court Reporter who is not independent and works inside of his courtroom for a long time. Her name was Briana Nesbit and was present at the revocation hearing, citing Document #123 docket text "TRANSCRIPT of Proceedings as to BRIAN DAVID HILL SRV hearing for dates of 6/30/2015 before Judge Thomas D. Schroeder, Court Reporter Briana L. Nesbit, Telephone number 336-734-2514...."

Then in her official transcript under Document #215, it says from the docket text that "TRANSCRIPT filed as to BRIAN DAVID HILL for dates of 09/12/2019, before Judge Thomas D. Schroeder, re [186] Supervised Release - Final Revocation Hrg.,,, Court Reporter Briana L. Bell, Telephone number 336-734-2514. Email: brinesbit@gmail.com." She had changed her name from Briana L. Nesbit to Briana L. Bell, but she was still the court reporter for the Hon. Judge Thomas D. Schroeder. So for 4 years or over she had continued being the court reporter there. Any omissions admitted could trigger an investigation, especially if any other person had ever accused this court reporter of ever having omissions in her official transcripts.

Regardless, human error does in fact happen and she could have forgot to type it up which is unintentional human error. Nonetheless the oral testimony that was omitted should be part of the record for appeal, whether it is in the official transcript or if the record was supplemented with what multiple witnesses can agree on what had been omitted from the transcript but can agree that the particular question, words, or statements were omitted from the transcript. It is not reasonable and is an error to ignore what other witnesses said regarding what was orally stated on record at the hearing but was not included in the transcript. Briana Bell had doubled down by arguing that she had made no error at all and that there were no omissions by her "MEMORANDUM", as if that is the only valid source of information when that clearly is not. Attorneys are officers of the court as well as Probation officers. They also should have had their opinions noted or they should have made memorandums or affidavits agreeing on or disagreeing on what was orally witnessed but was not included in the official transcript. So officers of the court should have been allowed to have been asked some questions and state in writing as to what was omitted from the Transcript. It should not be only the one court reporter who had served as the Judge's official court reporter since the 2015 revocation hearing of Appellant. She may be at every hearing under the Hon. Judge Thomas D. Schroeder unless the record shows otherwise. She is only human and is capable of error just like any other human being. She is NOT a god. She is not an entity of heaven. She is only a human being, capable of error. For the judge to not take anything into consideration except his own court reporter serving in his physical courtroom on a day-to-day basis is a CONFLICT OF INTEREST, A COI. Independent or collateral sources should have been taken into consideration before making a final decision on Appellant's Dkt. 216 "MOTION entitled "Petitioner's and Criminal Defendant's Motion to Correct or Modify the Record Pursuant to Appellate Rule 10(e) (Doc. #[215])""". To accept no other witnesses or evidence as credible except a memorandum is a conflict of interest, especially since Appellant had filed a motion to recuse and disqualify Judge Thomas D. Schroeder from further proceedings in this case, Dkt. 195.

Issue 3.

The District Court erred when it said that "*The alleged omissions are simply not material to the decision on revocation and appellate review of the same. Mr. Hill's excuse for his conduct originally was that a "black man in a hoodie" threatened his family if he did not get nude and take photographs of himself.*"

Supporting Facts and Argument.

Appellant never mentioned about a black man in a hoodie. He said man in a hoodie or man wearing a hoodie from various documents he had filed pro se. Sounded like a white guy. Citing Dkt. 152, Dkt. 153, Dkt. 154, Dkt. 155, Dkt. 162, Dkt. 163. Never mentioned anything in his written testimony that it was a "black man in a hoodie". That was the officer's interpretation which seems kind of racist to make his own determination instead of letting the witness and suspect Brian David Hill make his determination as to whether the man in the hoodie sounded like a black man or a white man. The alleged omissions are material to the decision on revocation because according to Price v. Commonwealth, 201 S.E.2d 798, 800 (Va. 1974), the obscenity requirement for the indecent exposure statute. Attorney Edward Kennedy may be bringing up that case law as well in his brief in Case no. 19-4758. When officer Robert Jones admits that Brian wasn't being obscene, it further adds to the credibility of Appellant that he did not violate state law § 18.2-387 because he wasn't being obscene and thus didn't violate the conditions of his Supervised Release but there was insufficient evidence of violation, insufficient evidence of obscenity. The omitted information makes it more difficult to show proof on appeal from what was said orally at the hearing which demonstrates that there was no sexual behavior and no obscenity of Appellant even though obscenity is required by Virginia law to establish evidence of a crime. Without obscenity, there is no evidence of the crime when proof of a crime to have been committed is required to warrant a revocation of Supervised Release.

Issue 4.

The District Court put information in his order that was not fact of what was on the record prior to such order. It is conclusory and defamatory. Document #223, Page 5: "...Virginia Police Department well after midnight, naked, after having exposed himself publicly, including on a public park trail within the city limits, and having taken graphic photographs of himself doing so."

Supporting Facts and Argument

The Government's own witness Sergeant Robert Jones corrected Assistant U.S. Attorney's ramblings that Appellant was naked on a public park trail.

Citing Page 13 of Transcript, Dkt. 215:

"Q On that trail, is that trail open at night?"

"A It is."

"Q Is it a park?"

"A It's a walking trail that goes from the county through the city back out into the county."

The Government's own witness admitted under oath that it is a walking trail and did not answer to it being a park. So it is not a park but a "walking trail". That was also cited in Document #222, "MOTION entitled "Petitioner's third Motion for Sanctions, Motion for Default Judgment in 2255 case and to Vacate Judgment that was in Plaintiff/ Respondent's favor" filed by BRIAN DAVID HILL. (Attachments: # (1) Exhibit 1, # (2) Exhibit 2, # (3) Exhibit 3, # (4) Exhibit 4, # (5) Exhibit 5, # (6) Exhibit 6, # (7) Exhibit 7, # (8) Exhibit 8, # (9) Exhibit 9, # (10) Exhibit 10, # (11) Supplement 1, # (12) Envelope - Front and Back) (Garland, Leah)". So Judge Schroeder of the U.S. District Court is citing fraudulent facts and frauds upon the court. That is not right. Hopefully the Writ of Mandamus under case no. 19-2338 will correct all of the frauds by the U.S. Probation Office under Edward R. Cameron and U.S. Attorney Office under Anand Prakash Ramaswamy against Brian David Hill. The fraudulent information being cited by the Judge is also increasing the frauds and making the fraudulent information more widespread.

See Exhibit 1, Attachment 1, under Dkt. 206 "MOTION entitled "Petitioner's Second Motion for Sanctions and to Vacate Judgment that was in Plaintiff's/Respondent's Favor; Motion and Brief/Memorandum of Law in support of Requesting the Honorable Court in this case Vacate Fraudulent begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 11/5/2019. (Attachments: # (1) Exhibit 1, # (2) Exhibit 2, # (3) Supplement 1, # (4) Supplement 2, # (5) Supplement 3, # (6) Supplement 4, # (7) Envelope - Front and Back) (Garland, Leah)".

Citing Exhibit 1 — Document #206, Attachment #1: "Dick & Willie Passage Rail Trail - Virginia Is For Lovers", "DICK & WILLIE PASSAGE RAIL TRAIL", "The Dick and Willie Passage Rail Trail is a beautiful 4.5 mile paved rail trail that is located in Martinsville and Henry County. The trail begins at Virginia Avenue and ends near Mulberry Creek in Martinsville. The trail can be accessed at one of four locations; Virginia Avenue. Liberty St.. Doyle Stand Fisher St. This trail is great for walking. biking. running or rollerblading." Citing Exhibit 1 — Document #206, Attachment #1: "This trail is part of the former Danville and Western Railroad. Train enthusiasts will enjoy reading stories about the history of the rail line on the many signs located along the trail. Contact Henry County Parks and Recreation at 276.634.4640 for more information about the trail."

There is no evidence of the walking trail being a "public park trail". There are public parks with small hiking trails, but the "Dick and Willie passage" is itself ONLY a hiking trail. This Judge of the District Court erroneously put false information in his own order even after multiple Motions for Sanctions asked the lower Court to vacate all fraudulent begotten judgments and to correct the frauds upon the court by sanctioning the very Attorney who had defrauded the court. The lies in the Petition for Warrant or Summons by the U.S. Probation Office and the lies by Anand Prakash Ramaswamy are both officers of the court committing fraud upon the court and the Judge goes along with it. None of that should be happening in an Article III Judicial court system. No credible court of competent jurisdiction should be permitting the frauds upon the court and go along with it. That is dereliction of duty and/or aiding and abetting the criminal misconduct of a party in a case, aiding and abetting the frauds. It is not ever a park but only a walking trail.

The lies and omissions on Court Record need to be corrected. The fraudulent begotten judgments need to be vacated. Brian was given 9 months of imprisonment based upon lies, omissions from the Transcript, and frauds upon the court. This is not just an issue with the Transcript and the errs and/or abuses of discretion by denying Appellant's motion requesting correcting the record. This is about ending the frauds upon the court by both the U.S. Probation Office and the U.S. Attorney Office. This is about the truth, not about allowing the lies to go on and on. In God We Trust.

4. Relief Requested

Identify the precise action you want the Court of Appeals to take:

The Court of Appeals should vacate the lower court's decision denying the Dkt. 216 "MOTION entitled "Petitioner's and Criminal Defendant's Motion to Correct or Modify the Record Pursuant to Appellate Rule 10(e) (Doc. #[215])". Remand to the lower District Court to order that the other witnesses submit memorandums and affidavits as to whether they believe that the omitted information was said verbally at the hearing on September 12, 2019. The Court should allow the supplementation of the record to contain the omitted information based upon the agreement of the witnesses and their affidavits or memorandums as to what was omitted from the transcript under Dkt. 215. If the Court cannot follow its duty to ensure that there are no omissions and that all information is accurate and true, then the higher Court needs to intervene. All lies in the lower Court's order needs to be vacated.

5. Prior appeals (for appellants only)

A. Have you filed other cases in this court? Yes ☒ No ☐

B. If you checked YES, what are the case names and docket numbers for those appeals and what was the ultimate disposition of each?

- (1) Case #19-2077, motion to dismiss by Appellant as moot, since requested relief was obtained
 (2) Case #19-4758, still pending; (3) Case #19-2338, still pending; (4) Case #19-7483, still pending; (5) Case #19-7755, still pending; and (6) Case #19-7756, still pending. 5 Consecutive Appeals ongoing.

Past appeals that are closed: (1) Case #18-1160, District Court judgment affirmed; (2) Case #17-1866, District Court judgment affirmed or Dismissed interlocutory

Brian D. Hill
Signed

Signature

[Notarization Not Required]

Brian David Hill

[Please Print Your Name Here]

U.S.W.G.O.

Brian D. Hill - Ally of QANON
 310 Forest Street, Apartment 2
 Martinsville, Virginia 24112

CERTIFICATE OF SERVICE

I certify that on 12/16/2019 I served a the original of this Informal Brief on the Clerk, addressed as shown below, then request service of process under 28 USC § 1915(d):

Brian D. Hill
Signed

Signature

U.S.W.G.O.

Brian D. Hill - Ally of QANON
 310 Forest Street, Apartment 2
 Martinsville, Virginia 24112

To satisfy service of process, Appellant requests that the Clerk file the informal brief on CM/ECF system, and serve the party: United States of America through Notice of Electronic Filing which serves the document with the counsel(s) of the other party. This request is pursuant to 28 U.S. Code § 1915(d) "The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases." Certified Mail Tracking No. 7019-2280-0000-8093-8816

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 19-7756 Caption: US v. Brian Hill, 1:13-cr-00435-TDS-1

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Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

Type-Volume Limit for Briefs: Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

Type-Volume Limit for Other Documents if Produced Using a Computer: Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

Typeface and Type Style Requirements: A proportionally spaced typeface (such as Times New Roman) must include serifs and must be 14-point or larger. A monospaced typeface (such as Courier New) must be 12-point or larger (at least 10½ characters per inch). Fed. R. App. P. 32(a)(5), 32(a)(6).

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(s) Brian D. Hill
Signed

Party Name Brian David Hill

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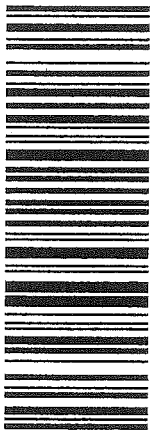
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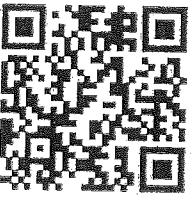
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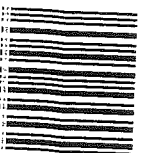
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